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109TH CONGRESS
2D SESSION

H. R. 5642

To reduce greenhouse gas emissions and protect the climate.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2006

Mr. WAXMAN (for himself, Mr. GEORGE MILLER of California, Mr. MARKEY, Mr. PALLONE, Mr. SANDERS, Ms. ESHOO, Mr. HINCHEY, Mr. FARR, Mr. DOGGETT, Mr. BLUMENAUER, Mrs. CAPPS, Mr. INSLEE, Ms. SCHAKOWSKY, Ms. SOLIS, and Mr. VAN HOLLEN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To reduce greenhouse gas emissions and protect the climate.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Climate Act of 2006''.

SEC. 2. FINDING; SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds as follows:

(1) The United States is a party to the 1992 United Nations Framework Convention on Climate Change, which has the objective of stabilizing greenhouse gas concentrations in the atmosphere at a level that would prevent ''dangerous anthropogenic interference'' with the climate system.

(2) To achieve this objective, the increase in global mean surface temperature should not exceed 2°C (3.6°F) above pre-industrial temperature.

(3) The risks associated with a temperature increase above 2°C (3.6°F) are grave, including the disintegration of the Greenland ice sheet, which, if it were to melt completely, would raise global average sea level by approximately 23 feet, devastating many of the world's coastal areas and population centers.

(4) The Intergovernmental Panel on Climate Change projects that temperatures will rise between 1.4°C to 5.8°C (2.5°F to 10.4°F) by the end of the century, under a range of expected emissions trends.

(5) Serious global warming impacts have already been observed in the United States and worldwide, including increases in heat waves and other extreme weather events, rise in sea level, retreat of glaciers and polar ice, decline in mountain snowpack,

increased drought and wildfires, stronger hurricanes, ocean acidification, extensive coral bleaching, migrations and shifts in the yearly cycles of plants and animals, and the spread of infectious diseases.

(6) Scientists project that under a mid-range estimate of global warming, by 2050, roughly 25 percent of animal and plant species will be committed to extinction.

(7) Decisive action is needed to minimize the many dangers posed by global warming.

(8) The timing of such action is critical, given that greenhouse gases can persist in the atmosphere for more than a century.

(9) Reductions in emissions from today's levels must begin within a decade to preserve the ability to stabilize atmospheric greenhouse gas concentrations at levels likely to protect against a temperature rise above 2°C (3.6°F).

(10) With only 5 percent of the world population, the United States emits approximately 20 percent of the world's total greenhouse gas emissions and must be a leader in addressing global warming.

(11) Existing energy efficiency and clean, renewable energy technologies can reduce global warming pollution, while saving consumers money, reduc-

ing our dependence on oil, enhancing national security, cleaning the air, and protecting pristine places from drilling and mining.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should participate in negotiations under the 1992 United Nations Framework Convention on Climate Change with the objective of securing United States participation in agreements that—

(1) establish mitigation commitments by all countries that are major emitters of greenhouse gases, consistent with the principle of common but differentiated responsibilities;

(2) achieve reductions in global greenhouse gas emissions at a pace and levels sufficient to avoid dangerous interference with the earth's climate; and

(3) advance and protect the economic and national security interests of the United States.

SEC. 3. AMENDMENTS TO THE CLEAN AIR ACT.

The Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

"TITLE VII—GREENHOUSE GAS EMISSIONS

"SEC. 701. EMISSION REDUCTION TARGETS.

''Not later than 2 years after the date of enactment of this section, the Administrator shall promulgate annual

emission reduction targets for each calendar year beginning in 2010 and ending in 2050, as follows:

''(1) In 2010, the quantity of United States greenhouse gas emissions shall not exceed the quantity of United States greenhouse gases projected to be emitted in 2009.

''(2) Beginning in 2011, the quantity of United States greenhouse gas emissions shall be reduced by approximately 2 percent each year, such that the quantity of such emissions in 2020 does not exceed the quantity of United States greenhouse gases emitted in 1990.

''(3) Beginning in 2021, the quantity of United States greenhouse gas emissions shall be reduced by approximately 5 percent each year, such that the quantity of such emissions in 2050 does not exceed 20 percent of the quantity of United States greenhouse gases emitted in 1990.

''SEC. 702. NATIONAL ACADEMIES REVIEW.

''Not later than 5 years after the date of the enactment of this section, and every 5 years thereafter, the National Academies, acting through the National Academy of Sciences and the National Research Council, shall submit a report to the Administrator and the Congress on the prospects for avoiding dangerous anthropogenic inter-

ference with the climate system and the progress made to date. Such report shall—

''(1) evaluate whether the emission reduction targets promulgated pursuant to section 701 are likely to be sufficient to avoid dangerous climate change, taking into account the actions of other nations;

''(2) include an assessment of whether each of the following events, and any other indicator of significant global warming determined by the National Academies, has occurred or is likely to occur—

''(A) atmospheric greenhouse gas concentrations of greater than 450 carbon dioxide-equivalent ppm;

''(B) global mean surface temperature increase of greater than 2°C (3.6°F) from pre-industrial levels;

''(C) substantial slowing of the Atlantic thermohaline circulation;

''(D) sea level rise of more than 8 inches;

''(E) ice-free Arctic Ocean in the summer;

''(F) decrease in the area of permafrost to below 50 percent of such area in 2000; and

''(G) loss of over 40 percent of the world's coverage of coral reefs, due to increased ocean temperature or acidity; and

''(3) if the National Academies concludes that emission reduction targets promulgated pursuant to section 701 are not likely to be sufficient to avoid dangerous climate change, or that any of the events specified in paragraph (2) has occurred or is likely to occur—

''(A) identify the needed amount of further reductions in atmospheric greenhouse gas concentrations; and

''(B) recommend additional United States and international actions to further reduce atmospheric greenhouse gas concentrations.

''SEC. 703. REGULATIONS.

''(a) IN GENERAL.—The Administrator shall promulgate not later than 2 years after the date of the enactment of this section, and may periodically revise, regulations requiring the reduction of United States greenhouse gas emissions to meet the emission reduction targets promulgated pursuant to section 701.

''(b) RULEMAKING ON RECOMMENDATIONS OF NATIONAL ACADEMIES.—If the National Academies submits a recommendation under section 702(3)(B) for a regu-

latory action by a Federal department or agency, and such regulatory action is within the authority of such department or agency (under law other than this subsection), the head of such department or agency shall, not later than 2 years after the submission of such recommendation, finalize a rulemaking—

''(1) to carry out such regulatory action; or

''(2) to explain the reasons for declining to act.

''SEC. 704. MARKET-BASED CAP ON EMISSIONS.

''(a) IN GENERAL.—The regulations promulgated under section 703(a) shall—

''(1) impose a cap on the greenhouse gas emissions of sources and sectors described in subsection (b)(1); and

''(2) allow emissions trading among covered entities.

''(b) SCOPE.—The regulations promulgated under section 703(a) shall—

''(1) apply the cap required by subsection (a)(1) to the sources or sectors of the United States economy with—

''(A) the largest emissions;

''(B) the most cost-effective opportunities to reduce emissions; or

''(C) other characteristics that the Administrator determines make the source or sector appropriate to include; and

''(2) cover a sufficient proportion of total United States greenhouse gas emissions, such that, in combination with other measures adopted under this title and under the Safe Climate Act of 2006 and the amendments made by such Act, such regulations will ensure that total United States greenhouse gas emissions will not exceed the emission reduction targets promulgated pursuant to section 701.

''(c) ALLOWANCES.—

''(1) IN GENERAL.—The regulations promulgated under section 703(a) shall provide for the Administrator to issue each year a quantity of greenhouse gas emissions allowances equivalent to the emissions allowed under the cap required by subsection (a)(1) for such year. Each such allowance shall authorize the emission of one carbon dioxide equivalent. Such an allowance does not constitute a property right, and nothing in any provision of law shall be construed to limit the authority of the United States to terminate or limit such an allowance.

''(2) TRADING.—Allowances issued under this section may be held and traded by any person.

''(3) FLEXIBILITY.—Allowances issued under this section may be used in the year of issuance or may be banked for use in a year subsequent to the year of issuance.

''(d) DISTRIBUTION OF ALLOWANCES.—

''(1) SUBMISSION OF PLAN BY PRESIDENT.—

''(A) IN GENERAL.—Within one year of the enactment of this title, the President, in consultation with the Administrator and other appropriate department and agency heads, shall develop and submit to the Congress a plan—

''(i) to distribute the allowances issued under this section through auctions, and, at the discretion of the President and subject to subparagraph (B)(iii), through allocations without charge to entities not covered by the cap or covered entities;

''(ii) to deposit the proceeds of such auctions in the Climate Reinvestment Fund established by subsection (h); and

''(iii) to ensure that such allowances are distributed, and such proceeds are

used, in a manner consistent with the goals described in subsection (e).

''(B) CONTENTS.—The plan submitted under subparagraph (A) shall—

''(i) identify the department or agency responsible for implementing each action required;

''(ii) ensure that allowances are distributed not later than January 1, 2010, for calendar year 2010; and

''(iii) in no case allow any distribution of allowances without charge to result in the creation of windfall profits for covered entities.

''(2) PLAN IMPLEMENTATION.—The Administrator and the head of each department or agency identified in paragraph (1)(B)(i) shall give the Congress a period of one year to review and act upon the plan submitted under paragraph (1). If during such period no statute is enacted for the express purpose of codifying such plan or an alternative to such plan, the Administrator and the head of each such department or agency shall implement the actions identified in the plan.

''(e) GOALS.—The goals described in this subsection are the following:

''(1) Maximizing public benefit and promoting economic growth.

''(2) Mitigating the effect of any energy cost increases to consumers, particularly low-income consumers.

''(3) Providing equitable transition assistance to any workers and regions affected by a transition away from high carbon-emitting energy sources.

''(4) Encouraging research, development, and commercial deployment of innovative technologies for avoiding, reducing, or sequestering greenhouse gas emissions.

''(5) Encouraging reduced carbon emissions from, and enhanced sequestration of, carbon in the forest and agricultural sectors.

''(6) Recognizing and rewarding early reductions of greenhouse gases.

''(7) Supporting activities, including providing support for State activities, to protect against and mitigate the impacts of climate change, including depletion of snowpack and water supplies, droughts, wildfires, enhanced coastal erosion, sea level rise, higher storm surges, more intense precipitation

events and hurricanes, spread of disease, damage to fish and wildlife habitat, commercial harms (such as damage to the maple syrup and fishing industries), and agricultural and forestry losses due to drought, disease, and insect infestations.

''(f) MONITORING.—The Administrator shall ensure that greenhouse gas emissions and the use of allowances issued under this section are accurately tracked, reported, and verified, to ensure that the cap-and-trade system established pursuant to this section is robust and enforceable.

''(g) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of excess greenhouse gas emissions under this section by an entity during any calendar year, the regulations promulgated under section 703(a) shall require the entity—

''(A) to submit allowances for such emissions during the following calendar year; and

''(B) to pay a civil penalty in an amount determined under paragraph (2).

''(2) AMOUNT OF CIVIL PENALTY.—For each quantity of excess greenhouse gas emissions constituting one carbon dioxide equivalent, the amount of a civil penalty under this subsection shall be twice the market price for an allowance at the end of the

calendar year in which the excess emissions occurred. The Administrator shall establish the method of determining such market price.

''(3) NO DEMAND REQUIRED.—A civil penalty under this subsection shall be due and payable to the Administrator without demand.

''(h) CLIMATE REINVESTMENT FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the 'Climate Reinvestment Fund' (in this subsection referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated pursuant to paragraph (2) to the Fund. Such amounts shall remain available until expended.

''(2) AUTHORIZATION OF APPROPRIATIONS.—For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

''(A) the amount collected through auctions of allowances issued under this section; and

''(B) the amount of civil penalties assessed under subsection (g).

''(3) USE OF FUNDS.—Amounts in the Fund and available pursuant to an appropriations Act

shall be expended by the President to further the goals described in subsection (e).

''(4) INVESTMENT.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund.

''(i) DEFINITION.—In this section, the term 'covered entity' means an entity covered by the cap under subsection (a)(1).

''SEC. 705. ADDITIONAL AUTHORITY TO REGULATE GREENHOUSE GAS EMISSIONS.

''(a) ADDITIONAL REGULATIONS.—The regulations promulgated under section 703(a) may include additional regulations to reduce emissions of greenhouse gases from any source or sector, irrespective of whether the source or sector is described in section 704(b)(1). Regulations under this section may include emissions performance standards, efficiency performance standards, best management practices, technology-based requirements, and other forms of requirements.

''(b) RELATION TO OTHER AUTHORITY.—The authorizations under this title are in addition to the Administrator's authority to regulate greenhouse gas emissions pursuant to other provisions of law in effect on the date of the enactment of the Safe Climate Act of 2006.

"SEC. 706. GREENHOUSE GAS EMISSIONS STANDARDS FOR MOTOR VEHICLES.

"(a) IN GENERAL.—The regulations promulgated under section 703(a) shall include regulations under section 202 setting standards for greenhouse gas emissions from motor vehicles. These standards shall reduce such emissions at least as quickly and at least as much (on an average vehicle basis) as the standards adopted by the California Air Resources Board at its September 23–24, 2004 hearing (California Code of Regulations, title 13, sec. 1961.1).

"(b) REVISION OF STANDARDS.—Not later than January 1, 2014, and every 5 years thereafter, the Administrator shall promulgate regulations revising such standards to further reduce greenhouse gas emissions from motor vehicles, taking into account the reductions needed to achieve the emission reduction targets promulgated pursuant to section 701, as well as the technological feasibility of achieving tighter standards of various stringencies.

"SEC. 707. SAVINGS CLAUSE.

"Nothing in this title shall be interpreted to preempt or limit State actions to address climate change.

"SEC. 708. DEFINITIONS.

"In this title:

''(1) CARBON DIOXIDE EQUIVALENT.—The term 'carbon dioxide equivalent' means the quantity of greenhouse gas that makes the same contribution to global warming as 1 metric ton of carbon dioxide, as determined by the Administrator, taking into account the global warming potentials published by the Intergovernmental Panel on Climate Change.

''(2) GREENHOUSE GAS.—The term 'greenhouse gas' means—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) hydrofluorocarbons;

''(E) perfluorocarbons;

''(F) sulfur hexafluoride; or

''(G) any other anthropogenically-emitted gas that is determined by the Administrator, after notice and comment, to contribute to global warming to a non-negligible degree.

''(3) UNITED STATES GREENHOUSE GAS EMISSIONS.—The term 'United States greenhouse gas emissions' means the total quantity of greenhouse gas emissions calculated by the Administrator on an annual basis and reported to the United Nations

Framework Convention on Climate Change Secretariat.''.

SEC. 4. NATIONAL RENEWABLE ENERGY STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–4 et seq.) is amended by adding at the end the following:

''SEC. 610. NATIONAL RENEWABLE ENERGY STANDARD.

''(a) IN GENERAL.—The Secretary shall promulgate regulations requiring that—

''(1) beginning in calendar year 2009, the percentage of electric energy generated from renewable sources that is sold at the retail level in the United States shall increase each year; and

''(2) in calendar year 2020 and each subsequent calendar year, such percentage shall be not less than 20 percent of the total electricity sold at the retail level in the United States.

''(b) CONSULTATION.—The Secretary shall carry out this section in consultation with the Administrator of the Environmental Protection Agency.

''(c) SUBSEQUENT INCREASES.—Upon petition or upon the Secretary's own initiative, the Secretary may increase the percentage required by subsection (a)(2).

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt or limit State actions

to enhance renewable energy generation or energy efficiency.''.

SEC. 5. NATIONAL ENERGY EFFICIENCY STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–4 et seq.), as amended by section 4 of this Act, is amended by adding at the end the following:

''SEC. 611. NATIONAL ENERGY EFFICIENCY STANDARD.

''(a) IN GENERAL.—The Secretary shall promulgate regulations in accordance with this section setting end-user savings targets for retail electric-energy and natural gas suppliers.

''(b) CONSULTATION.—The Secretary shall carry out this section in consultation with the Administrator of the Environmental Protection Agency.

''(c) REQUIREMENTS.—With respect to targets under subsection (a):

''(1) The targets shall require each supplier to secure annual savings of a set percentage of the supplier's most recent year's sales to retail customers.

''(2) The savings shall be achieved through end-use efficiency improvements at customer facilities.

''(3) The targets shall increase gradually from 0.25 percent of sales in 2009 to 1 percent of sales in 2012 and each year thereafter through 2020.

''(4) The targets are cumulative. Each year's savings shall be achieved in addition to the previous years' savings.

''(d) REQUIRED PERCENTAGES AFTER 2020.—The Secretary may, upon petition or upon the Secretary's own initiative, increase the required percentage of end-user savings for years after 2020.

''(e) MARKET-BASED TRADING SYSTEM.—The Secretary shall allow suppliers to achieve the targets under subsection (a) through a market-based trading system.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt or limit State actions to enhance renewable energy generation or energy efficiency.''.

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